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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

REGGIE ANTONIO PRATT, an individual,

Plaintiffs,

vs.

CASE NO: 2:24-cv-00374

MICHAEL PALMER, individually and in his
official capacity; THE UNITED STATES OF
AMERICA, a sovereign governmental entity;
UNITED STATES DEPARTMENT OF
JUSTICE, a governmental agency under the
United States; FEDERAL BUREAU OF
INVESTIGATION, a governmental agency
under the United States; KEVIN ALEXANDER
HERNANDEZ ARENAS, individually; RAUL
FERNANDEZ-GARCIA, individually; DOES I
through X; and ROE CORPORATIONS I
through X, inclusive,

Defendants.

**STIPULATION AND (PROPOSED)
ORDER TO EXTEND DISCOVERY
DEADLINES**

[FIRST REQUEST]

The undersigned, on behalf of Plaintiff, REGGIE ANTONIO PRATT, and Defendants,
KEVIN ALEXANDER HERNANDEZ ARENAS and RAUL FERNANDEZ-GARCIA, hereby
stipulate to extend the remaining deadlines in the scheduling order and discovery plan for one
hundred and twenty (120) days for the reasons explained herein, and under Local Rule 6-1(b).

I.

DISCOVERY COMPLETED TO DATE

1. The parties have conducted an FRCP 26(f) conference and have served their respective FRCP 26(a) disclosures;

2. Defendants Kevin Alexander Hernandez Arenas and Raul Fernandez-Garcia have propounded Interrogatories and Requests for Production of Documents on Plaintiff;

3. Plaintiff has responded to Defendants Kevin Alexander Hernandez Arenas and Raul Fernandez-Garcia's propounded Interrogatories and Requests for Production of Documents;

4. Defendants Kevin Alexander Hernandez Arenas and Raul Fernandez-Garcia have propounded Interrogatories and Requests for Production of Documents on Plaintiff;

5. Plaintiff has responded to Defendants Kevin Alexander Hernandez Arenas and Raul Fernandez-Garcia's propounded Interrogatories and Requests for Production of Documents;

6. Plaintiff provided executed medical authorization to Defendants;

7. Defendants requested, and obtained, Plaintiff's medical treatment records;

8. Deposition of Plaintiff was taken; and

II.

DISCOVERY TO BE COMPLETED

A. Deposition of the Defendant United States of America person most knowledgeable;

B. Deposition of Defendants Kevin Alexander Hernandez Arenas and Raul Fernandez-Garcia;

C. Plaintiff's written discovery requests and responses;

D. Defendant United States of America's written discovery requests and responses;

E. Initial and Rebuttal expert disclosures by all parties;

F. Depositions of expert witnesses;

G. Depositions of Plaintiff's treating physicians; and

H. Any other discovery the parties may deem necessary.

1 **III.**

2 **REASON THAT DISCOVERY HAS NOT BEEN COMPLETED**

3 This is the first stipulation for extension of time. The enlargement of time periods,
4 including discovery deadlines, is governed by F.R.C.P. 6(b), which states as follows:
5

6 When by these rules or by a notice given thereunder or by order of court an act is
7 required or allowed to be done at or within a specified time, the court for cause shown
8 may at any time in its discretion (1) with or without motion or notice order the period
9 enlarged if request therefor is made before the expiration of the period originally
10 prescribed or as extended by a previous order, or (2) upon motion made after the
11 expiration of the specified period permit the act to be done where the failure to act was
the result of excusable neglect; but it may not extend the time for taking any action under
Rules 50(b) and (c)(2), 52(b), 59(b), (d) and (e), 60(b), and 74(a), except to the extent and
under the conditions stated in them.

12 The Local Rules of the United States District Court for the District of Nevada include
13 additional provisions relating to the extension or reopening of discovery. Specifically, Local
14 Rule 6-1 governs requests for continuances and extensions in general, stating as follows:
15

16 (a) Every motion requesting a continuance, extension of time, or order shortening time
17 shall be Filed by the clerk and processed as an expedited matter. Ex parte motions
18 and stipulations shall be governed by LR 6-2.

19 (b) Every motion or stipulation to extend time shall inform the court of any previous
20 extensions granted and state the reasons for the extension requested. A request made after
21 the expiration of the specified period shall not be granted unless the moving party,
22 attorney, or other person demonstrates that the failure to act was the result
of excusable neglect. Immediately below the title of such motion or stipulation there shall
also be included a statement indicating whether it is the first, second, third, etc., requested
extension, i.e.:
23

24 **STIPULATION FOR EXTENSION OF TIME TO FILE MOTIONS (First Request)**

25 (c) The court may set aside any extension obtained in contravention of this rule.

26 (d) A stipulation or motion seeking to extend the time to file an opposition or final reply
27 to a motion, or to extend the time fixed for hearing a motion, must state in its opening
paragraph the filing date of the motion.

28 Local Rule 26-4 specifically refers to the extension of scheduled deadlines, stating:

Applications to extend any date set by the discovery plan, scheduling order, or other order must, in addition to satisfying the requirements of LR 6-1, be supported by a showing of good cause for the extension. All motions or stipulations to extend discovery shall be received by the court within twenty (20) days before the discovery cut-off date or any extension thereof.

Any motion or stipulation to extend or to reopen discovery shall include:

- (a) A statement specifying the discovery completed;
- (b) A specific description of the discovery that remains to be completed;
- (c) The reasons why discovery remaining was not completed within the time limits set by the discovery plan; and
- (d) A proposed schedule for completing all remaining discovery.

The parties' failure to timely request an extension of the discovery deadline under Local Rule 26-4 results from excusable neglect. Before 1993, a conflict existed between the Courts of Appeals as to the meaning of excusable neglect. In 1993, however, the United States Supreme Court resolved this conflict with its decision in *Pioneer Investment Services v. Brunswick Associates, Ltd.*, 507 U.S. 380 (1993). By empowering the courts to accept late filings where failing to act resulted from excusable neglect, Congress plainly contemplated that the courts would be permitted, where appropriate, to accept late filings caused by inadvertence, mistake, or carelessness, and by intervening circumstances beyond the party's control. *Id.* at 388. The parties' failure to request an extension of discovery twenty (20) days before the discovery deadline under LR 26-4 constitutes excusable neglect. The discovery deadline should be extended.

Pioneer's liberal definition of excusable neglect is applicable beyond the bankruptcy context where it arose. *Weinstock v. Cleary, Gottlieb, Steen & Hamilton*, 16 F.3d 501, 503 (2d Cir. 1994). Although the decision in *Pioneer* arose out of the context of a Bankruptcy Rule 9006 in a bankruptcy proceeding, the term excusable neglect is used throughout the Federal Rules of Civil Procedure in several places. For example, under Rule 6(b), where the specified period for performing an act has elapsed, a district court may enlarge the period and permit the tardy act

1 where the omission results from excusable neglect. *Pioneer*. 507 U.S. at 391. There is no
2 indication that anything other than the commonly accepted meaning of the phrase was intended
3 by its drafters. *Id.* Not surprisingly, in applying Rule 6(b), the Courts of Appeals have recognized
4 that excusable neglect may extend to inadvertent delays. *Id.* at 391-392.

5
6 Determining whether a party's neglect of a deadline is excusable requires the review of
7 several factors. Because Congress has provided no other guideposts for determining what sorts
8 of neglect will be excusable, the determination is equitable, taking account of all relevant
9 circumstances surrounding the party's omission. *Id.* at 395. The factors include: (1) the danger of
10 prejudice to the opposing party, (2) the length of the delay and its potential impact on judicial
11 proceedings, (3) the reason for the delay, including whether it was within the reasonable control
12 of the movant, and (4) whether the movant acted in good faith. *Id.* In *Committee for Idaho's High*
13 *Desert, Inc. v. Yost*, 92 F.3d 814 (9th Cir. 1996), the Ninth Circuit held that the Supreme Court's
14 analysis of excusable neglect in *Pioneer* applies to Rule 6(b). Similarly, the Ninth Circuit
15 adopted the *Pioneer* test for Rule 6(b)(1) cases in *Briones v. Riviera Hotel & Casino*, 116 F.3d
16 379, 381 (9th Cir. 1997).

17
18 In *Briones*, 116 F.3d at 381, the Ninth Circuit noted that *Pioneer* changed its law
19 on excusable neglect. *Bateman v. U.S. Postal Service*, 231 F.3d 1220 (9th Cir. 2000).
20 Before *Pioneer*, the Ninth Circuit had held that ignorance of court rules did not
21 constitute excusable neglect and had applied a per se rule against the granting of relief when a
22 party failed to comply with a deadline. *Id.* (citing *Briones*.) After *Pioneer*, however, the Ninth
23 Circuit recognized that the term excusable neglect covers cases of negligence, carelessness, and
24 inadvertent mistake. *Id.*

1 The parties have been diligent in moving the case forward and have participated in
2 discovery. Additional time is needed to propound written discovery requests, and for the
3 depositions of Defendants prior to the April 4, 2024 initial expert disclosure deadline. Plaintiff's
4 counsel has been engaging with settlement discussions with Defense counsel for the United
5 States of America, which there are additional layers to get the appropriate authority to resolve
6 which can take several months. The parties are convinced this case can be resolved prior to
7 retaining experts.
8

9 The parties have stipulated to extend discovery within 20 days of the initial expert
10 disclosure date of April 4, 2024. However, all other deadlines are further than 20 days away. The
11 filing admittedly did not occur twenty (20) days before the deadline as required by LR 26-4. This
12 case is relatively young. Plaintiff filed her complaint in Nevada State Court on February 23,
13 2024, and removal to Federal District Court occurred on August 12, 2024. Under these
14 circumstances, an extension of time in which to complete discovery will not unduly delay these
15 proceedings.
16

17
18 The Cause of the Delay Was Reasonable and the Movant Acted in Good Faith at All Times.

19 Here, both parties are agreeable to the extension and have acted in good faith to request
20 the same. The parties have no intent, nor reason, to delay the resolution. Both parties eagerly
21 looked forward to attempting to resolve this matter.
22

23 So, a review of the foregoing factors reveals that—although the parties' failure to request
24 an extension within 120 days of the initial expert disclosure deadline may constitute neglect—it
25 is excusable.
26
27
28

IV.

PROPOSED NEW DISCOVERY DEADLINES

Amend Pleadings	August 2, 2025
Interim Status Report	August 2, 2025
Discovery Cut-off	October 31, 2025
Expert Disclosures	August 2, 2025
Rebuttal Expert Disclosures	September 1, 2025
Dispositive Motions	November 29, 2025
Joint Pretrial Order	December 29, 2025

DATED this 12th day of February 2025.

HALE INJURY LAW

/s/ Brandon C. Verde

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DATED this 12th day of February 2025.

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DATED this 12th day of February 2025.

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ORDER

This Court granted the parties' discovery plan and scheduling order, in which the parties agreed to an extended discovery period of 270 days. ECF No. 23. This Court also granted the parties' stipulation to extend the discovery deadlines by 120 days. ECF No. 27. The parties now request an additional 120 days. Because this Court has already given the parties over a year to conduct discovery, it will GRANT in part and DENY in part [29] Stipulation for Extension of Time. The Court grants the parties a 60-day extension as follows:

Amend Pleadings: May 5, 2025
Discovery Cut-off: August 3, 2025
Expert Disclosures: June 3, 2025
Rebuttal Disclosures: July 7, 2025
Dispositive Motions: September 1, 2025
Joint Pre-trial Order: October 1, 2025 or 30 days after a decision on the dispositive motion(s) is entered, whichever is later.

IT IS SO ORDERED

DATED: 9:31 am, February 13, 2025



**BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE**